IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

THURSDAY, THE 21ST JUNE 2007 / 31ST JYAISHTA 1929

OP.No. 22393 of 2002(N)

PETITIONER:

M.M.USMAN, AGED 52 YEARS,
S/O. MOHAMMED, MUKKRIYAKATH HOUSE,
MARATHAMKODE P.O., MALAPPURAM DISTRICT.

BY ADV. SRI.NOUSHAD THOTTATHIL
SRI.GEORGEKUTTY JACOB

RESPONDENTS:
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1. ASSISTANT EXECUTIVE ENGINEER,
ELECTRICAL MAJOR SECTION, KUNNAMKULAM,
TRICHUR DISTRICT.

2. EXECUTIVE ENGINEER,
KUNNAMKULAM ELECTRICAL CIRCLE,
OFFICE OF THE EXECUTIVE ENGINEER (ELECTRICAL),
KUNNAMKULAM, TRICHUR DISTRICT.

3. THE KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY THE SECRETARY, VYDHYUTHI BHAVAN,
PATTOM PALACE, TRIVANDRUM.

BY ADV. SRI.C.K.KARUNAKARAN, SC FOR KSEB

THIS ORIGINAL PETITION HAVING COME UP FOR ADMISSION ON 21/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO. 38360/2002 IN O.P. NO. 22393/2002

DISMISSED

21.06.2007 SD/- KURIAN JOSEPH, JUDGE.

/True Copy/

P.A to Judge.

KURIAN JOSEPH , J

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O.P. NO. 22393 OF 2002

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Dated this the 21st day of June, 2007

JUDGMENT

The petitioner is aggrieved by Ext.P5 order passed by the appellate authority and the consequent Ext.P6 judgment. As per the impugned proceedings, penalty billing was adopted finding that the petitioner attempted pilferage of energy. Unauthorised load was connected to the incoming terminals of the meter so that the consumption will not be recorded in the meter. Taking note of the mode of use and the purpose of the use, the respondents have made reasonable assessment. Though the learned counsel for the petitioner vehemently contended that the assessment is arbitrary and the inspection was without notice, in view of the Mahazer prepared by the engineer who conducted the inspection, whereby the pilferage was detected, this is not a case where this Court, under Article 226, has to exercise the jurisdiction to advert to such contentions. It is also to be noted that in such situations, there has to be some mode of assessment and the appellate authority has adverted to a reasonable assessment of working hours as 8 hours and 6 hours respectively. The writ petition is hence dismissed, however making it clear that

being a penalty proceedings, the petitioner shall not be called upon to pay interest for the amounts demanded in Ext.P6, and that the petitioner shall be permitted to pay the dues in five equal instalments, starting from July, 2007.

KURIAN JOSEPH, JUDGE.

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